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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,581	04/11/2007	Donald Forkner	960200.00004	5364

26735 7590 02/23/2010  
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EXAMINER
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TEATERS, LINDSEY C

ART UNIT	PAPER NUMBER
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3742

NOTIFICATION DATE	DELIVERY MODE
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02/23/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pat-dept@quarles.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,581	<b>Applicant(s)</b> FORKNER, DONALD	
	<b>Examiner</b> LINDSEY C. TEATERS	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Specification***

Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

2. The abstract of the disclosure is objected to because it should be between 50 and 150 words. Correction is required. See MPEP § 608.01(b).

### ***Claim Objections***

3. Claims 1 and 3-6 are objected to because of the following informalities: Claim 1, line 6, and claim 4, line 7, "a electronic user operable control" should be --an electronic user operable control--. Appropriate correction is required.
4. Claim 1 is objected to because of the following informalities: Claim 1, line 6, the phrase "in the housing, and" should be changed to --in the housing,--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 3 recites the limitation "the front" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claim 1 previously re

8. Claim 6 recites the limitation "the control" in line 1. There is insufficient antecedent basis for this limitation in the claim. Claims 1 and 5 previously recite "a electronic user operable control", "a first user selectable temperature selection control", and "a second user selectable temperature selection control". It is unclear which is meant by "the control".

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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10. Claims 1 and 3-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Wensink et al (US 6,621,053 B1).

Re claims 1, 3, and 5-6:

Wensink et al teaches an oven (70) comprising a housing having a front side (12) with an opening therein (door 14) and with electric heating elements (27) in the interior thereof for cooking pizza, a removable tray (40) inserted into the opening in the housing and adapted to carry the food to be cooked thereon, a electronic user operable control (13) integrated into the front side of the housing, and comprising a first user selectable temperature selection control operable to activate the heating elements at a first temperature appropriate for pre-baked crust pizzas and a second user selectable temperature selection control operable to activate the electric heating elements at a second temperature appropriate for cooking self-rising crust pizzas (col. 2, lines 44-65), the opening in the front of the oven is at least about 3 inches (fig 1), the first user selectable temperature control further activates the electric heating elements for a first predefined period of time and the second user selectable selection control further activates the electric heating elements for a second predefined period of time (col. 2, lines 44-65), and the control further comprises a control arrangement (33, 34) for varying first and second predefined periods of time upward and downwards.

Re claim 4:

Wensink et al teaches a cooking oven (70) comprising a housing having a front side (12) with an opening therein (door 14) and with electric heating elements (27) in the interior thereof for

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cooking pizza, the opening in the front side being at least about 3 inches (fig 1), a removable tray (40) inserted into the opening in the housing and adapted to carry the food to be cooked thereon, a electronic user operable control (13) integrated into the front side of the housing, the control having a time display (31), high and low temperature selection buttons (32, 33, 34), and two cooking time changing buttons (33, 34), the control connected such that when a user operates the high temperature selection button, the control activates the electric heating elements at a first temperature appropriate for cooking a pre-baked crust pizza and defaults to a cooking time appropriate for a pre-baked crust pizza and when a user operates the low temperature button, the control activates the electric heating elements at a second temperature appropriate for cooking a self-rising pizza and defaults to a cooking time appropriate for a self-rising crust pizza (col. 2, lines 44-65), and when the user presses one of the cooking time changing buttons, the control changes the cooking time from the default cooking time upwards or downwards as selected by the user (col. 2, lines 61-65).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bowen et al (US 4,814,571) teaches a cooking oven having a removable tray and heating elements and a control interface which the user can set high and low temperature and corresponding cooking times.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY C. TEATERS whose telephone number is 571-270-

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5913. The examiner can normally be reached on Mon-Thur 8:30am-6:00pm :: alternating Fri 8:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/LINDSEY C TEATERS/  
Examiner, Art Unit 3742

02/02/2010  
/TU B HOANG/  
Supervisory Patent Examiner, Art Unit 3742